

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED

MAR - 8 2016

David J. Bradley, Clerk of Court

United States of America)

v.)

Moises Valdez)

Case No.

H16-335 M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 2015 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 U.S.C. § 2251 (a) and (e)

Offense Description

Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct.

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Robert J. Guerra, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

March 8, 2016

City and state:

Houston, Texas



Judge's signature

US Magistrate Judge Frances H. Stacy

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert J. Guerra, being duly sworn, depose and state:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge (SAC), in Houston, Texas. I have been so employed since November 2005. As part of my daily duties as an FBI agent, I am assigned to the FBI Houston Child Exploitation Task Force which investigates criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252A and 2252A et seq. I have received training in the area of child pornography and child exploitation. I have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media.

Child Pornography, as defined in 18 U.S.C. § 2256, is:

“any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

2. This Affidavit is made in support of a criminal complaint charging Moises VALDEZ with violating 18 U.S.C. § 2251(a) and (e) which make it a crime to produce child pornography.
3. I am familiar with the information contained in this Affidavit based upon the investigation I have personally conducted and my conversations with other law enforcement

officers involved in this investigation, or who have engaged in numerous investigations involving child pornography.

4. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, I have set forth only those facts that I believe are necessary to establish probable cause that evidence of a violation of 18 U.S.C. § 2251(a) and (e) have been committed by Moises VALDEZ on or about September 2015. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.
5. A growing phenomenon on the Internet is peer to peer file sharing (hereinafter, "P2P"). P2P file sharing is a method of communication available to Internet users through the use of special software. The software is designed to allow users to trade digital files through a worldwide network that is formed by linking computers together.
6. On May 22, 2015, SA Robert J. Guerra, using a computer connected to the Internet at the FBI Houston Field Office, utilizing a law enforcement tool that allows single-source downloads from the Ares P2P network, conducted an investigation into the sharing of child pornography through that network.
7. SA Guerra identified a computer on the Ares P2P file sharing network with the IP address of 98.195.253.211 as a potential download candidate (source) for at least 109 files with titles indicative of child pornography.
8. On May 22, 2015, between 0901 hours and 1447 hours (CST), SA Guerra successfully completed the download of one video file via a single source download, that the computer at IP address 98.195.253.211 was making available. Following the download, SA Guerra viewed the video file downloaded from 98.195.253.211 and determined that the file depicted

child pornography as defined by Title 18 United States Code 2256. Below is a description of the downloaded file that meets the federal definition of child pornography:

File Name: !11yr strip #ptsc sdpa opva hussyfan kinderkutje#.jpg

Description: This file is a video file and is 1 minute and 23 seconds in length. The video file depicts a nude underage female, who appears to be under the age of 14. The video begins with the underage female completely nude, she then changes into a series of different outfits. At one point in the video, the child can be seen spreading her vagina open towards the view of the camera

17. On May 23, 2015, SA Robert J. Guerra, using a computer connected to the Internet at the FBI Houston Field Office, utilizing a law enforcement tool that allows single-source downloads from the Ares P2P network, conducted an online session using the same software that he had utilized on May 22, 2015, downloaded two videos of suspected child pornography from the user assigned the IP address 98.195.253.211.
18. Following the download, SA Guerra viewed the video files downloaded from 98.195.253.211 and determined that both video files depicted child pornography as defined by Title 18 United States Code 2256.
19. Through his investigation, SA Robert J. Guerra was able to determine that the IP address 98.195.253.211 came back to the residence of Moises VALDEZ.
20. On January 29, 2016, the Houston Child Exploitation Unit executed a search warrant issued by United States Magistrate Judge John R. Froeschner at the residence of Moises VALDEZ. During the execution of the federal search warrant, SA Robert J. Guerra and SA Ryan J. Shultz interviewed VALDEZ at his residence. VALDEZ understood that he was not under arrest, that he was free to leave if he wished, that he did not have to talk to the interviewing agents, and that the decision of whether to consult with a lawyer was up to him.
21. VALDEZ stated he had an HP laptop that located in his bedroom that he primarily uses and had used as recently as two weeks ago. VALDEZ stated he has owned the HP laptop for a

few years. VALDEZ stated that there is also a desktop computer in bedroom that doesn't work that he has had for approximately three years. VALDEZ stated his HP laptop computer is password protected and provided the password to interviewing agents. VALDEZ stated agents would not find any child pornography on his laptop computer. VALDEZ also stated he had never heard of the peer to peer program called Ares. Shortly thereafter, VALDEZ invoked his right to an attorney and the interview was terminated.

22. On March 2, 2016, SA Guerra began the forensic review of the items seized pursuant to the federal search warrant executed at the residence of Moises VALDEZ. During that review, SA Guerra found approximately 75 images and over 180 videos of child pornography. The child pornography was stored on the HP laptop computer and the Gateway desktop computer, both of which were located in the bedroom of VALDEZ.

23. SA Guerra also found one video of child pornography believed to be produced by VALDEZ. The video was found on the HP laptop and appears to be downloaded from a cellular phone. The HP laptop was manufactured outside the state of Texas. The title of the video is consistent with titles generated by a cellular phone. SA Guerra believes, based on his training and experience, the video file depicts child pornography as defined by Title 18 United States Code 2256. Below is a description of the downloaded file that meets the federal definition of child pornography:

Title: **20150911_232413.mp4**

Description: This file is a video file and is 1 minute and 37 seconds in length that depicts an underage female, who appears to be under the age of 10, being vaginally penetrated by an adult male's penis. Also depicted in the video an adult male's fingers can be seen spreading open the vagina of the child. The child appears to be unconscious throughout the sexual assault.


24. SA Guerra reviewed the search photos the search team took throughout the residence before and after the commencement of the federal search warrant executed in January 2016. The bed frame depicted in the child pornography video matches the bed frame seen in the search

photos. The nightstand in VALDEZ's bedroom, where the HP laptop was found during the search warrant, is identical to the nightstand depicted in the child pornography video. Lastly, there were several cords, plugs and a router depicted in one of the frames of the video which are identical to those seen in the search photos. Based on the information above, SA Guerra believes the child pornography video was produced in VALDEZ's bedroom.

25. On March 8, 2016, SA Guerra contacted and interviewed the wife of VALDEZ, Wendy Valdez, and showed her still shots taken from the child pornography video found during the forensic review. Wendy Valdez identified the child depicted in the video as a minor relative with a date of birth of February of 2011. The minor relative would have been 4 years old at the time of the production of the video. Wendy Valdez further identified the clothing the child was wearing in the video as clothing belonging to the minor relative. Lastly, she identified the hand as well as the penis of the adult male depicted in the video as those of Moises VALDEZ.

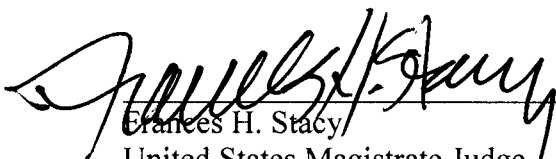
Wendy Valdez was able to provide the interviewing agents the underwear as well as the shirt the minor relative was seen wearing in the child pornography video.

26. Based upon the information delineated above, I believe that probable cause exists for the issuance of a Criminal Complaint charging Moises VALDEZ with a violation of 18 U.S.C. § 2251(a) and (e)– Production of Child Pornography.



Robert J. Guerra
Special Agent, FBI

Subscribed and sworn before me this 8 of March 2016, and I find probable cause.



Frances H. Stacy
United States Magistrate Judge